

**REMARKS**

At the outset, applicant appreciates Examiner Kidwell's withdrawal of her previous rejection and her indication that the Official Action of February 2, 2001 is a nonfinal Official Action.

Claims 1-6, 9 and 13-15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,591,150 to *Olsen et al.* and further in view of U.S. Patent No. 3,838,692 to *Levesque*. The rejection is respectfully traversed.

A preferred embodiment of the present invention pertains to an article having a liquid pervious surface layer 2 within the wetting region 15 which comprises a hydrophilic *absorbent* material 16, at least at the surface of the layer which is intended to be facing the user during use, and in the remaining parts of the liquid pervious surface layer 2 is a hydrophobic layer 14. It should be appreciated that the claimed invention is not limited to any specific embodiment.

It appears from the Official Action that the Examiner is attempting to take the absorbent article 20 disclosed in *Olsen et al.* and combine it with the hydrophobic sheet with hydrophilic passages disclosed in *Levesque*. First, applicant asserts one skilled in the art would not attempt to combine the articles disclosed in the applied references to achieve the absorbent article in claimed invention. Second, Neither *Olsen et al.* or *Levesque*, individually or in combination, disclose each and every feature recited in the claimed invention.

The Examiner concedes that *Olsen et al.* fails to disclose an absorbent article wherein the liquid pervious surface layer within the wetting region is constituted of hydrophilic absorbent material and that the remaining parts of the liquid pervious layer are constituted of a hydrophobic material as is recited in independent claim 1. However, the Examiner has attempted to remedy the deficiencies by attempting to combine the hydrophilic sheet with hydrophilic passages disclosed in *Levesque*.

*Levesque* discloses a hydrophobic sheet for use as a diaper liner. *Levesque* discloses that passages in the hydrophobic material are treated to render these passages hydrophilic.

*Levesque* fails to disclose an absorbent article which includes a hydrophilic absorbent material in the wetting region as is recited in claim 1. *Levesque* merely discloses that the sheet includes hydrophilic passages.

*Levesque* discloses that the passages are hydrophilic and not absorbent. This difference can be appreciated by understanding the difference in the objective of the present invention versus the article disclosed in *Levesque*. *Levesque* discloses that the objective of the hydrophobic sheet having hydrophilic passages is to "provide a substantial reduction in the area of a wearer's body in contact with wet or moistened materials, thereby reducing substantially the possibility of skin irritation. (see column 7, lines 22-26) In contrast, one of the objectives of the present invention is to provide an absorbent article which includes a hydrophilic absorbent material in the wetting region so as to create a wet surface on those parts of the surface material, which during use, may come in contact with mucous membranes. The hydrophilic absorbent material in accordance with the present invention

has the ability to absorb and **retain** a portion of the body fluid emitted to the article, and thus, can provide a surface that remains wet after wetting. (see page 11, lines 15-27)

*Levesque* discloses that the hydrophilic passages originate from a hydrophobic material. (see column 6, lines 63-66) Hydrophilic materials that originate from originally hydrophobic materials do not have the ability to absorb liquids as they do not have an inherent absorbent ability and thus, cannot provide a surface that remains wet after wetting. Accordingly, one skilled in the art would not attempt to use the hydrophobic sheet with hydrophilic passages disclosed in *Levesque* in combination with the absorbent article disclosed in *Olsen et al.* in an attempt to achieve the claimed invention.

Further the Official Action does not discuss the motivation for one skilled in the art to combine the articles disclosed in the applied references, besides attempting to achieve the claimed invention. It appears the Examiner is using "hindsight" reasoning.

Claims 2-6 and 13-15 include the allowable features of claim 1 and also include additional features as recited therein. For at least this reason, claims 2-6 and 13-15 are not rendered obvious by the applied references.

Claims 7 and 8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Olsen et al* in view of *Levesque* and in further view of U.S. Patent No. 5,449,352 to *Nishino et al.* Claim 10 is rejected as being unpatentable over *Olsen et al.* The rejections are respectfully traversed.

Claim 7 recites an absorbent article wherein the hydrophilic material layer is arranged **outside** of the first hydrophobic material layer. None of the applied reference

disclose such a configuration. Therefore, the rejection with respect to claim 7 should be withdrawn.

Claims 7, 8 and 10 include the allowable features of claim 1 and also include additional features as recited therein. For at least this reason, claims 7, 8 and 10 are not rendered obvious by the applied references.

**Conclusion**

For at least the foregoing reasons, applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Kidwell believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

Respectfully submitted,

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**Attachment to Amendment dated May 2, 2001**

**Marked-up Claim 9**

*Please cancel claim 9 without prejudice or disclaimer.*

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